REMARKS

The Office Action of April 10, 2000, has been noted, and its contents carefully studied. The pending claims in the application are 1-19, with claims 16-19 added by this amendment. No claim has yet to be allowed.

Claim Rejections - 35 U.S.C. §112

Claims 1-15 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, the Office Action asserts that the term "comprises" is open-ended in the context, "wherein said acid comprises methanesulphonic acid", and thus, it is unclear what else is included. Applicant respectfully traverses this rejection.

The breadth of a claim is not to be equated with indefiniteness. *In re Miller*, 441 F.2d 689, 169 U.S.P.Q. 597 (CCPA 1971). If the scope of the subject matter embraced by the claims is clear, and if the applicant has not otherwise indicated that they intend the invention to be of scope different from that defined in the claims, then the claims comply with 35 U.S.C. §112, second paragraph (see M.P.E.P. §2173.04). Use of the term "comprises" merely indicates that the acid may include other components, such as impurities; solvents such as water, alcohol or ether; or possibly other acids. Thus, the applicant envisions that the term "acid" would not be specifically limited to methanesulphonic acid. Consequently, Applicant respectfully requests that this rejection be withdrawn.

Claims Rejections - 35 U.S.C. §103

The cited prior art, namely U.S. Patent 2,721,199 (Huber), U.S. Patent 4,211,700 (Michel et al.), and U.S. Patent 4,689,412 (Rademacher et al.), do not suggest Applicant's utilization of methane sulfonic acid. As seen by each of the references, the basic process has been known for decades. However, as pointed out in Applicant's specification, at page 2, line 17 - page 3, line 22, many disadvantages are associated with the use of sulfuric acid, even though it is relatively inexpensive. By virtue of Applicant's utilization of methanesulphonic acid, such disadvantages are substantively avoided. In the absence of a reference which discloses the use of methanesulphonic acid in the context of Applicant's invention, Applicant respectfully submits that the Office Action displays a lack of appreciation of the problems set

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forth in the present specification. Also, the Office Action fails to appreciate that the present invention provides a solution to said problems. It is courteously submitted that there is ample legal precedence for the Examiner to withdraw the rejection and pass the case to issue in the absence of a more pertinent reference. Merely because methanesulphonic acid is known is an insufficient reason upon which to predicate obviousness under 35 U.S.C. §103. Under 35 U.S.C. §103, the subject of the invention, as a whole, must be the baseline for evaluating patentability. Hindsight reconstruction, particularly without a teaching reference, is impermissible. It is believed that the Examiner is familiar with the pertinent decisions set forth in the M.P.E.P. Furthermore, please see Applicants' response filed July 12, 2000 in related co-pending application Serial No. 09/400,996.

Double Patenting Rejection

Once Applicant receives notice that the case is in condition for allowance with the exception of the rejection on the grounds of double patenting, Applicant will submit a Terminal Disclaimer so as to avoid said rejection.

In view of the above remarks, favorable reconsideration is courteously requested.

Respectfully submitted,

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